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PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 11345/030001

	Application Number	Filed
	09/786,778-Conf. #6588	March 8, 2001
	First Named Inventor: Francois Rey	
	Art Unit: 2424	Examiner: U. Raman

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- [ ] applicant /inventor.
- [ ] assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- [x] attorney or agent of record. Registration number 33,986
- [ ] attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____

#45,079
Signature
THOMAS SCHERER
Jonathan P. Osha
Typed or printed name

(713) 228-8600
Telephone number

June 17, 2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

- [ ] *Total of 1 forms are submitted.

Docket No.: 11345/030001
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Francois Rey

Application No.: 09/786,778 | Confirmation No.: 6588

Filed: March 8, 2001 | Art Unit: 2424

For: APPLICATION DATA TABLE FOR A MULTISERVICE DIGITAL TRANSMISSION SYSTEM | Examiner: U. Raman

PRE-APPEAL BRIEF AND REQUEST FOR REVIEW

Rejection(s) under 35 U.S.C. § 103

A. Claims 48-49, 51-57, and 59-63

Claims 48-49, 51-57, and 59-63 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DVB in view of Menand (US Patent No. 5,539,920). This rejection is respectfully traversed.

MPEP § 2143 states that "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in KSR noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit." Further, when combining prior art elements, the Examiner "must articulate the following: (1) a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference...." MPEP § 2143(A).

1. The BAT disclosed in DVB fails to include two distinct parts as required by the ADT of the claimed invention

The amended independent claims require, in part, (i) a single application data table (ADT) across a plurality of services, where the ADT includes two portions: an application description part and a service description part; and (ii) where the application description part maps application identifiers to characteristics of a corresponding application.

Turning to the rejection, Applicants respectfully assert that DVB fails to disclose or render obvious the limitations required above. Specifically, as argued previously, the DVB standard defines a service as a set of digital data managed by an operator and broadcasted in a transport stream through terrestrial, satellite, or cable transmission means to a plurality of receivers/decoders. That is, DVB discloses only broadcast programs. In DVB, a bouquet association table (BAT) provides a list of services available in each bouquet. *See* DVB, page 15, section 5.2.2. However, the BAT of DVB fails to include two distinct parts: an application description part and a service description part, as required by the amended claims. Furthermore, the BAT of DVB fails to map a unique application identifier to characteristics of a corresponding application identified by the identifier. In fact, Applicant asserts that DVB is completely silent with respect to any information contained in the BAT which relates to applications carried by each of a plurality of services.

However, even assuming *arguendo* that the BAT of DVB includes application information (*i.e.,* television program information), because the BAT of DVB is not used for the same purpose as the claimed invention (*i.e.,* to provide the decoder with characteristics of each application carried by a plurality of services so that the decoder can make decisions when switching from one service to another) it is not possible for the BAT to map an application identifier to *characteristics of the application.* The BAT of DVB merely includes a service list descriptor that identifies the services available in each bouquet of programs, where the services are identified by a service identifier and a service type. However, neither the service identifier or the service type stored in the service list descriptor of DVB are mapped to characteristics of the service in an application description part of the service list descriptor. In fact, the service list descriptor of DVB does not have two distinct parts. The EIT table disclosed in DVB also fails to map application identifiers to corresponding application characteristics and also fails to have two distinct parts as

required by the claimed invention. Accordingly, DVB fails to disclose or render obvious (i) and (ii) above.

2. DVB fails to disclose evaluating characteristics when switching from a service of one combination of applications to a service of another combination of applications

The claimed invention also requires, in part, (iii) characteristics stored within the application description part that are evaluated when switching from a first service comprising a first and second application, and a second service comprising the first and a third application. *See, e.g.,* Specification, pages 29-30 for examples of the characteristics mapped to each unique application identifier in the ADT application description part.

It logically follows from the arguments above that DVB fails to disclose or render obvious that the characteristics are evaluated when a user switches between a service comprising a first and second application to a service comprising the first and a third application. That is, because DVB fails to disclose a mapping of the characteristics of the service in an application description part of the ADT, it is not possible for DVB to disclose or render obvious evaluating those characteristics which are mapped to in the ADT. Further, the aforementioned claimed limitation specifically recites that the service being switched to has an application in common with the service being switched from (*i.e.,* the first application is in both the service being switched from and the service being switched to). Thus, the characteristics of each of the first, second, and third applications are evaluated to determine which application to maintain, delete, and/or download when switching from the first service to the second service. There is absolutely no mention in DVB regarding the *evaluation of application characteristics* stored in the BAT *when switching* from one service to another, where the second service has an application in common with the original service. In fact, DVB does not even mention two distinct services that have a common application between them.

Accordingly, DVB fails to disclose or render obvious (iii) recited above.

3. Menand fails to supply that which DVB lacks

Menand relates to processing an audio video interactive signal. *See* Menand, Abstract. An audio video interactive (AVI) receiver receives a packet service including modules

which are processed. Menand does not relate to providing a decoder with characteristic information about applications carried by a plurality of services so that the decoder can make decisions regarding what to do with certain applications when a user switches between services. The cited portion of Menand merely discloses that when a user changes channels, a message is sent to the event manager. In response to this message, the application program deallocates its resources and gets ready to allocate resources for the new directly module corresponding to the changed channel. *See* Menand, col. 6, ll. 36-64. There is no decision that is made by a decoder in Menand. Thus, there is no need to evaluate characteristics to make a decision on whether to delete, maintain, or download applications based on the user's switch in services. In Menand, the new corresponding directly module is automatically loaded; there is no evaluation process that occurs based on information stored in a table that allows a decoder to evaluate particular characteristics to determine how to act with respect to applications carried by the old module and the new module. Further, Menand makes no mention of an application commonly carried by the old module for which resources are deallocated and the new module for which resources are allocated. It logically follows that Menand fails to disclose or render obvious the evaluation of application characteristics when switching between a first and second service that carry a common application, as required by (iii).

With respect to (i) and (ii), Menand fails to disclose or render obvious an ADT that has two parts in which the application description part includes a mapping between an application identifier and characteristics of a corresponding application. Accordingly, it is clear that Menand fails to supply that which DVB lacks. Menand merely discloses an executable application API that is used to send a message to the event manager when a channel is changed or an interactive commercial is broadcast. *See* Menand, col. 6, ll. 36-45.

In view of the above, it is clear that the Examiner's contentions fail to support an obviousness rejection of the amended independent claims. Pending dependent claims are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

B. Claims 50, 58, and 64

Claims 50, 58, and 64 are rejected under 35 U.S.C. § 103(a) as being unpatentable over DVB and Menand in view of US Patent No. 6,526,508 ("Akins"). To the extent that this rejection may still apply to the amended claims, this rejection is respectfully traversed.

As described above, DVB and Menand fail to disclose or render obvious the limitations of amended independent claims 48, 56, and 63. Further, Akins fails to disclose or otherwise provide that which DVB lacks. Specifically, Akins fails to disclose or render obvious an application data table (ADT) comprising an application description part and a service description part that includes characteristics for each application that are taken into account when a user switches between services. In fact, Akins only discloses security measurements implemented for downloaded applications. *See* Akins, col. 5, ll. 41-59.

In view of the above, it is clear that the Examiner's contentions fail to support an obviousness rejection of amended independent claims 48 and 56. Pending dependent claims 50, 58, and 64 are patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

In view of the above, the Examiner's contentions do not support the rejection of claims 48-49, 50-57, and 58-64 under 35 U.S.C. §103(a), as the Examiner has clearly failed to satisfy the requirements set forth in MPEP § 2143 with respect to the pending claims. Accordingly, a favorable decision from the panel is respectfully requested.

Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 11345/030001).

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Respectfully submitted,

By #45,079
Jonathan P. Osha Thomas Scherer
Registration No.: 33,986
OSHA · LIANG LLP
909 Fannin Street, Suite 3500
Houston, Texas 77010
(713) 228-8600
(713) 228-8778 (Fax)
Attorney for Applicant